

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

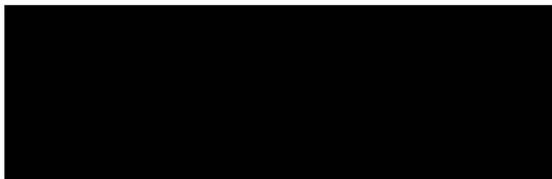
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

D2



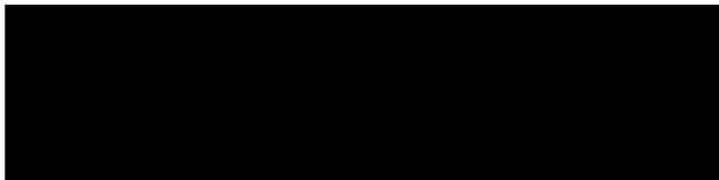
FILE: WAC 08 148 53283 Office: CALIFORNIA SERVICE CENTER Date: FEB 03 2010

IN RE: Petitioner:  
Beneficiary:



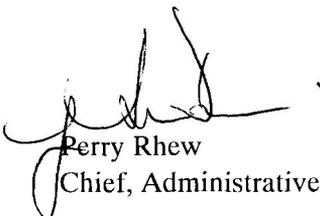
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn. The petition will be remanded for the entry of a new decision.

The petitioner describes itself as an information technology solutions business and indicates that it currently employs 117 persons. It seeks to employ the beneficiary as a programmer analyst. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition because the petitioner failed to establish that the beneficiary is qualified to perform the services of a specialty occupation.

On appeal, counsel states, in part, that the petitioner already provided a detailed discussion of the beneficiary's qualifications in response to the director's request for evidence (RFE), and that the record already contains supporting documents to show that the beneficiary is qualified to perform the services of the proffered specialty occupation. Counsel also states that the beneficiary meets the criterion described in 8 C.F.R. § 214.2(h)(4)(iii)(C)(2), that the beneficiary holds a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university. Counsel states that the record contains credentials evaluations and an expert opinion letter as supporting documentation.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), states that an alien applying for classification as an H-1B nonimmigrant worker must possess full state licensure to practice in the occupation, if such licensure is required to practice in the occupation, and completion of the degree in the specialty that the occupation requires. If the alien does not possess the required degree, the petitioner must demonstrate that the alien has experience in the specialty equivalent to the completion of such degree, and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

As counsel states that the beneficiary meets the criterion described in 8 C.F.R. § 214.2(h)(4)(iii)(C)(2), the AAO will address this criterion only.

**Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C)(2), an alien must hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university.**

The director found that the beneficiary was not qualified for the proffered position because the beneficiary's foreign bachelor's degree in electronics and telecommunication engineering is not equivalent to a baccalaureate degree in a specialty required by the occupation. The director also found that, although the credentials evaluation of the beneficiary's foreign degree from [REDACTED] of William Paterson University indicates that the beneficiary's foreign degree is the U.S. equivalent of a Bachelor of Science degree in electronics and telecommunications engineering, the beneficiary's transcripts do not reflect sufficient coursework in computer-related courses to

qualify the beneficiary for the proffered position. On appeal, counsel provides a second credentials evaluation from [REDACTED] of Brooklyn College of the City University of New York, who also finds that the beneficiary's foreign degree is the U.S. equivalent of a bachelor's degree in electronics and telecommunications engineering. Counsel also provides an expert opinion letter from [REDACTED] of the Robert H. Smith School of Business at the University of Maryland, who states, in part, that the beneficiary's academic credentials qualify him for the proffered programmer analyst position.

The record contains the following documentation relating to the beneficiary's qualifications:

- An evaluation, dated July 9, 2008, from [REDACTED] at William Paterson University in Wayne, New Jersey, who concludes that the beneficiary's foreign Bachelor of Engineering degree from Sambalpur University, located in India, is the equivalent of a Bachelor of Science in Electronics and Telecommunications Engineering degree awarded by an accredited institution of higher education in the United States;
- An evaluation, dated September 25, 2008, from [REDACTED] at Brooklyn College of the City University of New York, who concludes that the beneficiary's foreign Bachelor of Engineering degree in electronics and telecommunications engineering is the equivalent of a bachelor's degree in electronics and telecommunication engineering awarded by an accredited institution of higher education in the United States;
- An expert opinion letter, dated September 25, 2008, from [REDACTED] [REDACTED] of the Robert H. Smith School of Business at the University of Maryland, who states, in part, that the beneficiary's academic credentials qualify him for the proffered programmer analyst position;
- A copy of the beneficiary's Bachelor of Engineering degree, issued on May 8, 2001, by Sambalpur University, located in India; and
- Copies of the beneficiary's transcripts from Sambalpur University.

A review of the Computer Systems Analysts occupation category in the Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* 2010-11 edition, finds no requirement of a bachelor's degree in a specific specialty for a computer systems analyst position. Employers usually prefer applicants who have at least a bachelor's degree. In this case, the beneficiary holds a foreign bachelor's degree in electronics and telecommunication engineering, which has been evaluated as the U.S. equivalent of a bachelor's degree in electronics and telecommunication engineering. In his September 25, 2008 letter, [REDACTED] of the Robert H. Smith School of Business at the University of Maryland finds that the beneficiary's curriculum included several courses related to computer science. Thus, it appears that the beneficiary is qualified for a programmer analyst position. The petition may not be approved, however, as the petitioner has not established that the proffered position is a specialty

occupation. As stated previously, the *Handbook* finds no requirement of a bachelor's degree in a specific specialty for a computer systems analyst position. Moreover, the proposed duties in the petitioner's February 25, 2008 letter, such as "[a]nalysis of the existing system and user needs" and "[c]ommunication and interaction with current system users," are described only generically and thus the exact nature of the proffered position is unclear.<sup>1</sup> In addition, although information on the petition that was signed by the petitioner's president on March 17, 2008 reflects that the petitioner has 117 employees and a gross annual income of more than \$10 million, the record contains no evidence in support of these claims, such as federal income tax returns. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The director must afford the petitioner reasonable time to provide evidence pertinent to the issue of whether the proffered position is a specialty occupation, and any other evidence the director may deem necessary. The director shall then render a new decision based on the evidence of record at it relates to the regulatory requirements for eligibility. As always, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The director's August 27, 2008 decision is withdrawn. The petition is remanded to the director for entry of a new decision, which if adverse to the petitioner, is to be certified to the AAO for review.

---

<sup>1</sup> A review of the petitioner's website finds that the petitioner delivers "Information Technology, Business Process outsourcing solutions, and staffing solutions . . ."